AN ORDINANCE approving CONTRACT #925-93, HAFFNER DRIVE SANITARY SEWER EXTENSION between SCHEIDLEMAN EXCAVATING, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That CONTRACT #925-93, HAFFNER DRIVE SANITARY SEWER EXTENSION by and between SCHEIDLEMAN EXCAVATING, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, for:

beginning at an existing sanitary sewer manhole 10±LF North and 10±LF West of the northwest corner of Lot #14 Bohde Woods Addition as recorded in Plat Book 24 Page 18 in the Office of the Recorder of Allen County, Indiana; thence Easterly 260±LF to a proposed sanitary sewer manhole; thence North to a proposed sanitary sewer manhole 10±LF West of the Northwest corner of Lot #17 Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the Office of the Recorder of Allen County, Indiana; thence Easterly on and along the North line of said Lot #17, 316±LF to a proposed sanitary sewer manhole at the Northeast corner thereof; thence South on and along the East line of said Reckeweg Suburban Addition 1948±LF to a proposed sanitary sewer manhole; thence Easterly 220 LF to a proposed sanitary sewer manhole; and proposed sanitary sewer manhole on the East line of Lot #3 Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the Office of the Recorder of Allen County, Indiana 120±LF South of the Northeast corner

sanitary sewer manhole. Said sanitary sewer shall be 12" and 8" in diameter.

thereof; thence Southwesterly 125±LF to a proposed

the contract price is One Hundred Fifty-Four Thousand Three Hundred Forty Four Dollars and 04/100 (\$154,344.04) all as more particularly set forth in said Contract, which is on file in the Office of the Board of Public Works and, is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved. Two (2) copies of said Resolution are on file with the Office of the City Clerk

and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Lanet & Bradbury
Council Member

APPROVED AS TO FORM AND LEGALITY

J. Timothy McCaulay, City Attorney

SEWER CONTRACT - 925-1993

BOARD ORDER NO.37-92

WORK ORDER NO. <u>73894</u>

THIS CONTRACT made and entered into this <u>Id</u> day of <u>Nov.</u> 1993, by and between SCHEIDLEMAN EXCAVATING, INC., hereinafter called CONTRACTOR and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works, herein called OWNER;

WITNESSETH, that the CONTRACTOR and the OWNER, for the considerations hereinafter named, agree as follows:

ARTICLE I: SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following sanitary sewer:

HAFFNER DRIVE SANITARY SEWER EXTENSION RES. #925-1993

Beginning at an existing sanitary sewer manhole 10± LF North and 10± LF West of the northwest corner of Lot #14 Bohde Woods Addition as recorded in Plat Book 24 Page 18 in the Office of the Recorder of Allen County, Indiana; thence Easterly 260± LF to a proposed sanitary sewer manhole; thence North to a proposed sanitary sewer manhole 10± LF West of the Northwest corner of Lot #17 Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the Office of the Recorder of Allen County, Indiana; thence Easterly on and along the North line of said Lot #17, 316± LF to a proposed sanitary sewer manhole at the Northeast corner thereof; thence South on and along the East line of said Reckeweg Suburban Addition 1948± LF to a proposed sanitary sewer manhole; thence Easterly 220± LF to a proposed sanitary sewer manhole;

ALSO:

Beginning at a proposed sanitary sewer manhole on the East line of Lot #3 Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the Office of the Recorder of Allen County, Indiana 120± LF South of the Northeast corner thereof; thence Southwesterly 125± LF to a proposed sanitary sewer manhole.

Said sanitary sewer shall be 12" and 8" in diameter.

all according to Res. #925-1993 Drawing No. 11298 Sheets 1 through 9 and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2: THE CONTRACT PRICE

The OWNER shall pay CONTRACTOR for the performance of the contract the unit price sum of One Hundred Fifty Four Thousand Three Hundred Forty Four and 04/100 (\$154,344.04) Dollars. In the event the amount of work is increased or decreased by OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the CONTRACTOR'S proposal.

ARTICLE 3: PROGRESS PAYMENTS AND RETAINAGE

The CONTRACTOR may submit requests for payments no more often than every thirty (30) days for work performed and accepted under the contract. If the contractor is in compliance with the provisions of the contract, the Board will make payments for such work performed and completed. However, in any such case, the Board will retain five (5%) percent of the total amount owing to insure satisfactory completion of the contract. Payments to the contractor are not to exceed 90% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider attached hereto.

If the contract is in excess of \$100,000 the contract will be subject to the standard Board of Public Works escrow agreement.

ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract, including the E.B.E. Rider, is fully performed. Payments to the CONTRACTOR are not to exceed 90% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider attached hereto.

Upon filing of a Completion Affidavit by the CONTRACTOR that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the OWNER to promptly make such inspection, and will direct the Contract Compliance Department of the OWNER to make a final recommendation on whether the CONTRACTOR made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider.

When the Engineering Department finds the work acceptable under the contract and the contract is fully performed, it shall so inform the Board of Public Works. Likewise, when the Contract Compliance Department determines that the CONTRACTOR'S efforts constitute

good faith efforts to attain the E.B.E. goal as agreed in the E.B.E. Rider, it shall so inform the Board of Public Works through an E.B.E. Compliance Final Report.

Upon receiving both the Engineering Department's and the Contract Compliance Department's recommendations, the Board of Public Works shall issue a final certificate stating that the work provided for in this Contract has been completed and accepted, and further stating that the E.B.E. Rider goal has been met. Thereupon, the entire balance of the contract sum shall be due and payable to the CONTRACTOR; provided only that the CONTRACTOR shall first furnish OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, material or equipment for the work have been fully paid, and all required manpower utilization reports for this project have been submitted.

In the event that the Board of Public Works determines that good faith compliance with the E.B.E. Rider has not occurred, appropriate reduction in the final payment will be made pursuant to paragraph 6 of the E.B.E. Rider attached hereto. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.

ARTICLE 5: WORKMEN'S COMPENSATION ACT

The CONTRACTOR will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with the Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.

Any judgment rendered against the City of Fort Wayne in any suits for damages or injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of CONTRACTOR, or its agents, employees or workmen or any judgment of any court or award of any Board of Arbitrators or of the Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation for accidental injuries or death suffered by his employees or the employees of any subcontractor or subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said CONTRACTOR, shall be conclusive against CONTRACTOR as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that CONTRACTOR indemnify and hold harmless OWNER in the premises.

ARTICLE 6: NON-DISCRIMINATION OF LABOR

The CONTRACTOR further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-34-78 (as amended) on December 12, 1978. The successful bidder shall file a Manpower Utilization Report for this project with the

Compliance Office within ten (10) days after completion of construction or upon request of the Office of Compliance.

ARTICLE 7: PREVAILING WAGE SCALE

The CONTRACTOR agrees to pay, and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the Statutes of the State of Indiana, and the Ordinances of the City of Fort Wayne, according to the applicable wage scale as included in the bid documents.

ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- a. Advertisement for Bids, for Contract No. 925-1993
- b. Instructions to Bidders for Contract No. 925-1993
- c. Contractor's Proposal dated 13, October, 1993
- d. Fort Wayne Engineering Department Drawing No. SY-11298
- e. Supplemental Specifications for Contract No. 925-1993
- f. Workmen's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne
- g. Non-Discrimination of Labor, General Ordinance No. G-34-78 (as amended)
- h. Prevailing Wage Scale
- i. Performance and Guaranty Bond
- j. Labor and Material Payment Bond
- k. Minority/Female Employment Hourly Utilization
- 1. Right-of-Way Cut Permit
- m. Comprehensive Liability Insurance Coverage
- n. EBE Rider
- o. City of Fort Wayne WPCE Standards & Specifications

ARTICLE 9: GUARANTEE OF WORKMANSHIP

At the time of execution of this Contract, the CONTRACTOR shall furnish a Performance and Guaranty bond in favor of the City of Fort Wayne in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the work by the OWNER.

ARTICLE 10: INDEMNITY

CONTRACTOR shall furnish to OWNER within ten (10) days of the date hereof, a certificate from an insurer acceptable to OWNER showing personal property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to OWNER and in accordance with the Statutes of the State of Indiana.

ARTICLE 11: ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this Contract shall be subject to the decision of the Director of Board of Public Works of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications or other phases of the work covered by this contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12: COMPLETION DATE

The CONTRACTOR agrees to complete the work specified in the contract within 120 consecutive calendar days after having been ordered by the OWNER to commence work under this contract.

ARTICLE 13: COUNCILMANIC APPROVAL

This agreement, although executed on behalf of the OWNER by the Mayor and Board of Public Works & Safety of the City of Fort Wayne, Indiana, shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

ARTICLE IV:

This contract is governed by the Laws of the State of Indiana.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

Br John Marie Control of the Control	By \ Holl
Scheidleman Excavating, Inc.	Paul Helmke, Mayor
John D. Scheidleman, President	
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BOARD OF PUBLIC WORKS	
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Charles Layton, Director	
Public Works	
Rufell Carin	
Katherine A. Carrier, Member	
Jemes Acen	
C. James Owen, Member	
ATTEST:	,
Patricia J. Crub	<i>;</i>
Patricia J. Crick	

E.B.E. RIDER

THIS AGREEMENT made and entered into b	by and between the CITY OF FORT
WAYNE, hereinafter referred to as "Owner" and	Scheidleman Excavating, Inc.
hereinafter referred to as "Contractor",	·
WITNESSETH:	
WHEREAS, Contractor is the apparent low bide	der on construction project commonly
referred to as theHaffner Drive Sanitary Sewe	er Extension
	whichroject
was bid under Resolution Number925-1993	. ,
WHEREAS, Contractor agrees that the goa	al for qualified Emerging Business
Enterprises, hereinafter sometimes referred to as "E.B.I	E.'s" as subcontractors on this project
is 10% of the contract amount; and,	
WHEREAS, Owner has, pursuant to Executive	Order 90-01, adopted a goal of at least
10% of the contract amount to Emerging Business Enter	rprises as defined under said Executive
Order; and,	
WHEREAS, said Executive Order states:	
"Section 2, Paragraph C. Each contractor shall b	e required to make a good faith effort
to subcontract 10% of the contract amount to Eme	erging Business Enterprises on each
construction contract he/she is awarded. In the event	a contractor is unable to subcontract
10% of the contract amount or secure the services of an	Emerging Business Enterprise, he/she
will be required to submit a completed Request for Waiv	er form on which he/she will provide

a written description of the efforts taken to comply with the participation goals."

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements hereinafter contained, the sufficiency of which consideration is hereby acknowledged, the parties hereto agree as follows:

- 1. Conditional Award. Subject to approval by the Common Council of the City of Fort
 Wayne as stipulated in the construction contract to which this Rider is attached,
 Owner awards the construction contract to the Contractor.
- 2. E.B.E. Retainage Requirements. If the contractor is in compliance with the provisions of the construction contract to which this Rider is attached, the Owner will make payments for such work performed and completed. However, in any such case, the Owner will retain ten (10%) percent of the total amount owing to insure satisfactory completion of the contract and to insure contractor's compliance with this E.B.E Rider. Upon final inspection and acceptance of the work, and determination by the Fort Wayne Board of Public Works that the contractor has made a good faith effort to subcontract 10 % of the contract amount to emerging business enterprises, the contractor will be paid in full

In the event there is a determination that good faith compliance with this E.B.E. Rider has not occurred, appropriate reduction in the final payment pursuant to paragraph of this E.B.E. Rider will be made.

If the contract is in excess of \$100,00 the contract will be subject to the Standard Board of Public Works escrow agreement. However, payments to the CONTRACTOR are

not to exceed 90% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in this E.B.E. Rider. Payment of the final 10% of the total contract amount will be dependent upon good faith efforts to comply with this E.B.E. Rider, and subject to reduction in the event of non-compliance as provided in paragraph 6 of this E.B.E. Rider.

- 3. Request for Waiver. If at the time final payment application is made, contractor has not attained the 10% E.B.E. goal, contractor shall file with the final payment application a "Request for Waiver." Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the 10% E.B.E. goal.
- 4. <u>Determination of Waiver Requests.</u> The Contract Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor's efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said Requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- 5. Good Faith Per Se. In any case, a contractor shall be deemed to have made good faith efforts at compliance where E.B.E.'s have been subcontracted for every sub-contract for which there are qualified E.B.E.'s available.
- 6. <u>Consequence of Non-Compliance.</u> In the event the Board of Public Works approves a recommendation that contractor failed to make good faith efforts at compliance, the contract shall be reduced by the amount calculated as the difference between 10% and the percentage level met. Said amount shall be added to the City of Fort Wayne E.B.E.

Bond Guarantee Fund and contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.

7. <u>Waiver Approved.</u> In the event the Board of Public Works determines that a good faith effort to comply with this E.B.E. Rider has been made, the contract shall not be reduced, and the balance owing to the contractor shall be paid in full.

By:
Contractor John D. Scheidleman, President
Scheidleman Excavating, Inc.

By: BOARD OF PUBLIC WORKS

Charles E. Layton, Director of Public Works

Katherine A. Carrier, Member

Arne Que

C. James Owen, Member

Among Poticial O Caribo

Patricia J. Crick, Clerk

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Read the firseconded by title and referred City Plan Commission due legal notice, a Building, Fort Wayn of	to the Committee on for recommendat at the Common Coun	uly adopted on ton and Pulcil Conference	, read the secon Allele olic Hearing to	d time by (and the be held after
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			LMKE, MAYOR	

MEMORANDUM

Common Council Members TO:

FROM:

Patrick W. Callahan, Assistant Chief Engineer/Sanitary

DATE:

November 8, 1993

RE:

Introduction of Contract for Resolution 925-1993, Haffner

Drive, Sanitary Sewer Extension

This project was initiated because the majority of the property owners in the area petitioned for public sewers. The area is currently served by septic tanks, some of which are failing. The discharge from these septic tanks flows down a creek that runs by a city school less than a half mile away. A portion of this line will be oversized to provide future relief for another main that is currently overloaded.

The work covered by this contract is:

153-11-24

Mainline

Beginning at an existing sewer manhole 10+LF North and 10+LF West of the northwest corner of Lot #14 Bohde Woods Addition as recorded in Plat Book 24 Page 18 in the Office of the Recorder of Allen County, Indiana; thence Easterly 260+LF to a proposed sanitary sewer manhole; thence North to a proposed sanitary sewer manhole 10+LF West of the Northwest corner of Lot#17 Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the Office of the Recorder of Allen County, Indiana; thence Easterly on and along the North line of said Lot#17, 316+LF to a proposed sanitary sewer manhole at the Northeast corner thereof; thence South on and along the East line of said Reckeweg Suburban Addition 1948+LF to a proposed sanitary sewer manhole; thence Easterly 220±LF to a proposed sanitary sewer manhole;

ALSO Beginning at a proposed sanitary sewer manhole on the East line of Lot#3 Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the Office of the Recorder of Allen County, Indiana 120+LF South of the Northeast corner thereof; thence Southwesterly 125+LF to a proposed sanitary sewer manhole.

Said sanitary sewer shall be 12" and 8" in diameter.

The advertised Notice to Contractors ran on September 17 and 24, 1993 and bids were received October 6, 1993.

The Contract for Resolution No. 925-1993, Haffner Drive Sanitary Sewer Extension, was awarded to Scheidleman Excavating, Inc. in the amount

of \$154,344.04. This was 27% below the engineers estimate (\$206,935.00). They were the lowest of four bidders.

The cost of said improvements shall be paid with Water Pollution Control Utility revenues and Revolving Barrett Law Funds.

TITLE OF ORDINANCE: Sewer Contract #925-93, Haffner Drive Sanitary Sewer Extension

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: On Sewer Contract #925-93, Haffner Drive Sanitary Sewer Extension, the contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following sanitary sewer.

Beginning at an existing sanitary sewer manhole 10± LF North and 10± LF West of the northwest corner of Lot #14 Bohde Woods Addition as recorded in Plat Book 24 Page 18 in the Office of the Recorder of Allen County, Indiana; thence Easterly 260± LF to a proposed sanitary sewer manhole; thence North to a proposed sanitary sewer manhole 10± LF West of the Northwest corner of Lot #17 Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the Office of the Recorder of Allen County, Indiana; thence Easterly on and along the North line of said Lot #17, 316± LF to a proposed sanitary sewer manhole at the Northeast corner thereof; thence South on and along the East line of said Reckeweg Suburban Addition 1948± LF to a proposed sanitary sewer manhole; thence Easterly 220 LF to a proposed sanitary sewer manhole;

ALSO:
Beginning at a proposed sanitary sewer manhole on the East line of Lot #3
Reckeweg Suburban Addition as recorded in Plat Book 16 Page 141 in the
Office of the Recorder of Allen County, Indiana 120±LF South of the
Northeast corner thereof; thence Southwesterly 125±LF to a proposed

sanitary sewer manhole.

Said sanitary sewer shall be 12" and 8" in diameter.

Scheidleman Excavating, Inc. is the contractor.

EFFECT OF PASSAGE: Improved sanitary sewer conditions as listed above.

EFFECT OF NON PASSAGE:

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$154,344.04 (WPC Revenues & Revolving Barrett Law Funds)

ASSIGNED TO COMMITTEE:

REPORT OF THE COMMITTEE ON CITY UTILITIES JANET G. BRADBURY - CHAIRPERSON SAMUEL J. TALARICO - VICE CHAIRPERSON RAVINE, HENRY

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REFERRED HAFFNER and the Works	AN (ORDINANCE) DRIVE SANITARY SEWER City of Fort Wayne,	(RESOLUTION) a EXTENSION between Indiana, in connect	approving CONTRACT SCHEIDLEMAN EXCAVA- tion with the Board	#925-9 ATING, d of Pu
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